

# CORRESPONDENCE/MEMORANDUM

Department of Agriculture, Trade and Consumer Protection

STATE OF WISCONSIN

**DATE:** December 29, 2010

**TO:** Landowners considering modification of a farmland preservation agreement

**FROM:** Department of Agriculture, Trade and Consumer Protection

**SUBJECT:** Considerations for modification of a farmland preservation agreement

Landowners with a farmland preservation agreement with the state can modify a pre-June 30, 2009 agreement under the new working lands legislation (s. 91.60(3)(c), 2009 Wis. Stats.) to become eligible for the \$5 per acre per year farmland preservation income tax credit. The option to modify an agreement is also available for any new agreements under 2009 WI Act 374.

When deciding to modify an existing agreement, consider the following.

- Modifying the agreement does not extend the current expiration date of an existing agreement.
- Modifying the agreement may not make sense if the previous agreement expires in the next couple of years.
- The agreement currently in place may provide a higher tax credit under the previous tax credit formula than the tax credit under the new program.
- The land where the agreement is being modified must be in compliance with the existing farmland preservation agreement provisions in order for the agreement to be modified.
- The applicant for the modified agreement must own the land and the modified agreement may not include any lands not included in the previous agreement.
- Land under a modified agreement must comply with the soil and water conservation requirements in place when the agreement is modified. If the applicant received a FPP tax credit for tax year 2009 (paid in 2010), the county can place the land under a schedule of compliance to meet the new conservation standards. If the landowner did not receive a FPP tax credit for tax year 2009, they will need to get a certificate of compliance from the county land conservation department before they will be eligible for any tax credit.

Once an agreement is modified the removal of land from under the agreement requires the landowner to pay the conversion fee. This conversion fee is equal to three times the per acre value of the highest value category of tillable cropland in the city, village, or town of the agreement. The highest value category is specified by the Department of Revenue at <http://www.revenue.wi.gov/report/a.html>. Land under a modified agreement that violates the agreement based on s. 91.68, 2009 Wis. Stats., will be subject to the penalty provisions in the new statute.

The Department of Revenue has determined that the land under a modified agreement can be eligible for the 2010 tax year even if the agreement modification is not fully signed and executed until sometime in 2011. The modified agreement will not be recorded because the department does not want to lose our place in line related to the recorded documents on the land in the county register of deeds offices. The existing agreements were all recorded with the register of deeds offices. We will provide the landowners and the county offices with copies of the modification of agreement form after it has been fully signed.

Please contact Kris Modaff (608-224-4633) if you have any questions.